



DEPARTMENT OF HEALTH AND HUMAN SERVICES

48 CFR Parts 332 and 352

RIN 0991–AC32

Department of Health and Human Services Acquisition Regulation - Electronic Submission and Processing of Payment Requests

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services (HHS or the Department) is proposing to amend the Department’s Federal Acquisition Regulation Supplement, the HHS Acquisition Regulation (HHSAR), to support the HHS Electronic Invoicing Implementation Project and HHS’s transition to the Department of the Treasury’s Invoice Processing Platform. This complies with Office of Management and Budget (OMB) memorandum M-15-19, Improving Government Efficiency and Saving Taxpayer Dollars Through Electronic Invoicing, issued on July 17, 2015.

DATES: To be assured consideration, comments must be received at the address provided below, no later than 11:59 p.m. [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments through the Federal eRulemaking Portal:

<https://www.regulations.gov>. Follow the “Submit a comment” instructions.

Warning: Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the internet and can be retrieved by most internet search engines. No deletions, modifications, or redactions will be made to comments received.

Inspection of Public Comments: All comments received before the close of the comment

period will be available for viewing by the public, including personally identifiable or confidential business information that is included in a comment. You may wish to consider limiting the amount of personal information that you provide in any voluntary public comment submission you make. HHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>. Follow the search instructions on that website to view the public comments.

FOR FURTHER INFORMATION CONTACT: Shari Shor, Procurement Analyst, Department of Health and Human Services, Office of the Assistant Secretary for Financial Resources, Office of Acquisition Policy, 200 Independence Avenue, S.W, Washington, DC 20201. Email: Shari.Shor@hhs.gov. Telephone: (202) 731-3383.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of the Assistant Secretary for Financial Resources (ASFR) is in the process of implementing the HHS Electronic Invoicing Implementation Project in conjunction with the Unified Financial Management System team, the HHS Consolidated Acquisition System team, the Office of Acquisitions, the Office of Acquisition Business Systems, and the Office of Financial Policy. This project is needed to bring HHS in compliance with the OMB Memorandum issued on July 17, 2015, which directed federal agencies to transition to electronic invoicing for appropriate federal procurements. Immediately following the issuance of the OMB Memorandum, HHS initiated the project by evaluating different solutions, building consensus across the Department, developing a business case, and receiving approval from HHS governance bodies.

II. Required Regulatory Analyses

A. Executive Orders 12866 and 13563

EO 12866, “Regulatory Planning and Review,” and EO 13563, “Improving Regulation and Regulatory Review,” direct agencies to assess all costs and benefits of available regulatory alternatives and, if the regulation is necessary, to select regulatory approaches that maximize net benefits.

OMB determined that the rulemaking was not an economically significant regulatory action under these EOs. The preambles to this rule maintained that it primarily described procedural changes that would require Department expenditures to implement.

B. Regulatory Flexibility Act

The Department has examined the economic implications of this proposed rule as required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.* The RFA requires an agency to describe the impact of a proposed rulemaking on small entities by providing an initial regulatory flexibility analysis, unless the agency determines that the proposed rule will not have a significant economic impact on a substantial number of small entities, provides a factual basis for this determination, and proposes to certify the statement. 5 U.S.C. 603(a) and 605(b). The Department considers a proposed or final rule to have a significant economic impact on a substantial number of small entities if it has at least a three percent impact on revenue of at least five percent of small entities. The Department has determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on the operations of a substantial number of small entities.

C. Executive Order 13132 (Federalism)

EO 13132, “Federalism,” establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on State and local governments or has Federalism implications. The Department has determined that this proposed rule would not impose such costs or have any federalism implications.

D. Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments)

HHS has analyzed this proposed rule in accordance with the principles set forth in EO 13175.

HHS has tentatively determined that the proposed rule does not contain policies that would have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. In accordance with the Department's Tribal consultation policy, the Department solicits comments from tribal officials on any potential impact on Indian Tribes from this proposed action.

E. National Environmental Policy Act

HHS had determined that this proposed rule would not have a significant impact on the environment.

F. Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, 44 U.S.C. 3501–3521; 5 CFR part 1320, appendix A.1, the Department has reviewed this proposed rule and has determined that it proposes no new collections of information.

List of Subjects in 48 CFR Parts 332 and 335

Government procurement.

Accordingly, HHS proposes to amend 48 CFR chapter 3, parts 332 and 352, as follows:

PART 332 – CONTRACT FINANCING

1. The authority citation for part 332 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 121(c)(2).

2. Add subpart 332.70 to read as follows:

Subpart 332.70 – Electronic Submission and Processing of Payment Requests

Sec.

332.7000 Scope of subpart.

332.7001 Definitions.

332.7002 Policy.

332.7003 Contract clause.

Subpart 332.70 - Electronic Submission and Processing of Payment Requests

332.7000 Scope of subpart.

This subpart prescribes policies and procedures for electronic submission and processing of payment requests.

332.7001 Definitions.

Payment request, as used in this subpart, is defined as a bill, voucher, invoice, or request for contract financing payment with associated supporting documentation. The payment request must comply with the requirements identified in FAR 32.905(b), Content of invoices, and the applicable Payment clause included in this contract.

332.7002 Policy.

(a) Contracts shall require the electronic submission of payment requests, except for—

(1) Purchases paid for with a Government-wide commercial purchase card; and

(2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise classified information or national security.

(b) Where a contract otherwise requires the electronic submission of invoices, the Contracting Officer may authorize alternate procedures only if the Contracting Officer makes a written determination that:

(1) The Department of Health and Human Services (HHS) is unable to receive electronic payment requests or provide acceptance electronically;

(2) The contractor has demonstrated that electronic submission would be unduly burdensome; or

(3) The contractor is in the process of transitioning to electronic submission of payment requests, but needs additional time to complete such transition. Authorizations granted on the basis of this paragraph (b)(3) must specify a date by which the contractor will transition to electronic submission.

(c) Except as provided in paragraphs (a) and (b) of this section, HHS officials shall process electronic payment submissions through the Department of the Treasury Invoice Processing Platform or successor system.

(d) If the requirement for electronic submission of payment requests is waived under paragraph (a)(2) or (b) of this section, the contract or alternate payment authorization, as applicable, shall specify the form and method of payment request submission.

332.7003 Contract clause.

Except as provided in 332.7002(a), use the clause at 352.232-71, Electronic Submission of Payment Requests, in all solicitations and contracts.

PART 352 – SOLICITATIONS PROVISIONS AND CONTRACT CLAUSES

3. The authority citation for part 352 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 121(c)(2).

4. Add section 352.232-71 to read as follows:

352.232-71 Electronic submission of payment requests

As prescribed in HHSAR 332.7003, use the following clause:

Electronic Submission of Payment Requests (DATE TBD)

(a) *Definitions.* As used in this clause—

(1) “*Payment request*” means a bill, voucher, invoice, or request for contract financing payment with associated supporting documentation. The payment request must comply with the requirements identified in FAR 32.905(b), “Content of Invoices” and the applicable Payment clause included in this contract.

(b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests electronically using the Department of Treasury Invoice Processing Platform (IPP) or successor system. Information regarding IPP, including IPP Customer Support contact information, is available at www.ipp.gov or any successor site.

(c) The Contractor may submit payment requests using other than IPP only when the Contracting Officer authorizes alternate procedures in writing in accordance with HHS procedures.

(d) If alternate payment procedures are authorized, the Contractor shall include a copy of the Contracting Officer's written authorization with each payment request.

(End of Clause)

Dated: October 4, 2021.

Xavier Becerra,

Secretary.

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